

FIRST EXTRAORDINARY SESSION  
**HOUSE BILL NO. 5**

**99TH GENERAL ASSEMBLY**

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INTRODUCED BY REPRESENTATIVE BARNES (60).

2425H.011

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To amend chapter 393, RSMo, by adding thereto three new sections relating to ratemaking for public utilities, with an emergency clause for certain sections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 393, RSMo, is amended by adding thereto three new sections, to be known as sections 393.355, 393.356, and 393.1410, to read as follows:

**393.355. 1. As used in this section, the following terms shall mean:**

(1) "Aluminum smelting facility", a facility whose primary industry is the smelting of aluminum and primary metals, Standard Industrial Classification Code 3334;

(2) "Electrical corporation", the same meaning given to the term in section 386.020, but shall not include an electrical corporation as described in subsection 2 of section 393.110;

(3) "Steel works facility", a facility whose primary industry is the production or fabrication of steel, North American Industrial Classification System 331110.

2. Notwithstanding section 393.130 or any other provision of law to the contrary, the public service commission shall have the authority to approve a special rate, outside a general rate case proceeding, that is not based on the electrical corporation's cost of service for an aluminum smelting facility or a steel works facility if:

(1) The commission determines the special rate is in the interest of the state of Missouri when considering the interests of the customers of the electrical corporation serving the facility and the interests of the citizens of the state generally in promoting economic development, improving the tax base, providing employment opportunities in the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 state, and promoting such other benefits to the state as the commission may determine are  
18 created by approval of the special rate;

19 (2) After approval of the special rate, the commission shall allocate in each general  
20 rate proceeding of the electrical corporation serving the facility the reduced revenues from  
21 the special rate as compared to the revenues that would have been generated at the rate the  
22 facility would have paid without the special rate to the electrical corporation's other  
23 customers through a uniform percentage adjustment to all components of the base rates  
24 of all customer classes; and

25 (3) The commission approves a tracking mechanism meeting the requirements of  
26 subsection 3 of this section.

27 3. Any commission order approving a special rate authorized by this section to  
28 provide service to an aluminum smelting facility or steel works facility in the manner  
29 specified in subsection 4 of this section shall establish, after commission approval of a  
30 special rate, a tracking mechanism to track changes in the net margin experienced by the  
31 electrical corporation serving the facility with the tracker to apply retroactively to the date  
32 the electrical corporation's base rates were last set in its last general rate proceeding  
33 concluded prior to the effective date of this section. The commission shall ensure that the  
34 changes in net margin experienced by the electrical corporation are calculated in such a  
35 manner that the electrical corporation's net income is neither increased nor decreased.  
36 The changes in net margin shall be deferred to a regulatory liability or regulatory asset,  
37 as applicable, with the balance of such regulatory asset or liability to be included in the  
38 revenue requirement of the electrical corporation in each of its general rate proceedings  
39 through an amortization of the balance over a reasonable period until fully returned to or  
40 collected from the electrical corporation's customers.

41 4. Notwithstanding the provisions of section 393.170, an electrical corporation is  
42 authorized to provide electric service to an aluminum smelting facility or steel works  
43 facility at a special rate authorized by the commission:

44 (1) Under a rate schedule reflecting the special rate approved by the commission;  
45 or

46 (2) If the facility is located outside the electrical corporation's certificated service  
47 territory, the facility shall be deemed a commission-regulated retail electric customer of the  
48 electrical corporation and the rates, charges, and revenues under the contract shall, for  
49 ratemaking purposes, be treated by the commission as if the rates, charges, and revenues  
50 arise under the electrical corporation's tariffs.

51 5. To receive a special rate, the facility shall file a written application with the  
52 commission specifying the requested special rate and any terms or conditions proposed by

53 the facility respecting the requested special rate and provide information regarding how  
54 the requested special rate meets the criteria specified in subdivision (1) of subsection 2 of  
55 this section. A special rate provided for by this section shall be effective for no longer than  
56 ten years from the date such special rate is authorized. The commission may impose such  
57 conditions on the special rate as it deems appropriate so long as it otherwise complies with  
58 the provisions of this section.

2 393.356. If the commission approves a special rate under section 393.355, the  
2 commission shall lack the authority to modify or eliminate any such special rate during the  
3 specified term.

2 393.1410. 1. It shall be the policy of the state of Missouri for the commission to  
2 regulate electrical corporations in a manner to best ensure safe, reliable, and affordable  
3 energy for ratepayers through just and reasonable rates. To comply with this policy, the  
4 commission may support expenditures by electrical corporations that maintain or improve  
5 the reliability, safety, security, or automation of electric infrastructure, including the use  
6 of the latest technologies to meet the needs and expectations of customers if the commission  
7 determines that doing so is in the best interests of ratepayers by ensuring that energy is  
8 safe, reliable, and affordable in Missouri.

9 2. As used in this section, the following terms shall mean:

10 (1) "Decisional pre-approval with a post-construction review of construction  
11 projects", a process in which the electrical corporation may request commission pre-  
12 approval of a decision to undertake major construction projects, whereby, if pre-approval  
13 is granted, the electrical corporation shall remain subject to a post-construction review of  
14 the prudence and reasonableness of the incurred costs of the projects prior to inclusion of  
15 the costs in customer rates;

16 (2) "Grid modernization incentive mechanisms", special ratemaking treatments  
17 granted to an electrical corporation to provide an incentive to engage in investments that  
18 modernize transmission, distribution, or metering system components installed pursuant  
19 to a commission-approved grid modernization plan, and which may include allowing the  
20 utility to defer depreciation, expense, and carrying costs on qualifying plant additions until  
21 the point that such investments are included in the electrical corporation's rate base for  
22 ratemaking purposes;

23 (3) "Partially forecasted test years", a test year consisting of twelve consecutive  
24 months of financial information utilized in a rate proceeding as a starting point to  
25 determine an electrical corporation's authorized revenue requirement that includes no  
26 more than six months of forecasted data;

27           (4) "Performance-based ratemaking", rates subject to the upward or downward  
28 periodic adjustment outside of a general rate case based on a utility's ability to meet certain  
29 preset financial or operating criteria established by the commission;

30           (5) "Revenue decoupling with regular adjustments", a mechanism to adjust rates  
31 prospectively to account for deviations in usage, demand, and customer count such that an  
32 electrical corporation's revenues for a given time period, as adjusted by costs previously  
33 determined in a general rate case, match that utility's commission-approved revenues.

34           3. Subject to the prohibitions of section 393.135, the commission may utilize  
35 partially forecasted test years, grid modernization incentive mechanisms,  
36 performance-based ratemaking, revenue decoupling with regular adjustments, or  
37 decisional pre-approval with post-construction review of construction projects. To the  
38 extent the commission's approval of a rate adjustment mechanism or other mechanism  
39 provided for by this section specifies a term over which the approval is to continue, the  
40 commission shall lack the authority to arbitrarily modify or eliminate the electrical  
41 corporation's use of the mechanism or tool during the specified term.

42           4. The commission may only utilize any of the ratemaking mechanisms specified  
43 in this section upon the electricity corporation establishing and the commission  
44 determining that use of the mechanism in the particular instance would result in an overall  
45 benefit to ratepayers considering its impact on rates, reliability, safety, security, and  
46 customer service.

Section B. Because economic development is vital for the continued success of the  
2 Missouri economy, the enactment of sections 393.355 and 393.356 of this act is deemed  
3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution, and the enactment  
5 of sections 393.355 and 393.356 of this act shall be in full force and effect upon its passage and  
6 approval.

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